



INTERIOR BOARD OF INDIAN APPEALS

Julia C. Jones v. Assistant Anadarko Area Director, Bureau of Indian Affairs

17 IBIA 122 (05/03/1989)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

JULIA C. JONES,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 89-30-A
ASSISTANT ANADARKO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	May 3, 1989

On April 28, 1989, the Board of Indian Appeals received a notice of appeal from Julia C. Jones (appellant). Appellant seeks review of a March 20, 1989, decision of the Assistant Anadarko Area Director, Bureau of Indian Affairs, denying the request of Heritage National Bank, Edmond, Oklahoma, for a loan guaranty to secure a loan of \$350,000 to appellant to acquire Jetta Products, Inc.

Appellant acknowledges that her notice of appeal is untimely but requests an extension of time for filing it. She states that she erroneously filed her notice of appeal with the Assistant Secretary - Indian Affairs because of a communication error. She encloses a copy of a receipt for certified mail which shows receipt in the Assistant Secretary's office on April 11, 1989.

The appeal is docketed under the above case name and number, which should be cited in all future correspondence or inquiries regarding the matter. The Board finds, however, that the circumstances of this case require that the appeal be dismissed.

Appellant enclosed a copy of the Assistant Area Director's March 20 decision with her notice of appeal. The decision states that it may be appealed to this Board and gives the Board's address. It states that copies of the notice of appeal must be sent to the Assistant Secretary, the Area Office, and all known interested parties. These directions accurately describe the appeal procedure set out in 25 CFR Part 2, 54 FR 6478 (Feb. 10, 1989), and the Board's requirements, at 43 CFR 4.310(b) and 4.332(a), 54 FR 6486 and 6488 (Feb. 10, 1989), concerning filing and service of notices of appeal. It is apparent that the "communication error" alleged by appellant was not the result of incorrect information provided in the decision appealed from.

43 CFR 4.332(a) provides in part that "[a] notice of appeal not timely filed shall be dismissed for lack of jurisdiction." 43 CFR 4.334 provides: "Requests for extensions of time to file documents may be granted upon a showing of good

cause, except for the time fixed for filing a notice of appeal which, as specified in § 4.332 of this part, may not be extended." The Board has held that the timely filing of a notice of appeal is jurisdictional. Donald Victor Beck v. Bureau of Indian Affairs, 8 IBIA 210 (1980), on reconsideration, 8 IBIA 211 (1980).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Assistant Anadarko Area Director's March 20, 1989, decision is dismissed for lack of jurisdiction.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge